PUBLIC STATEMENT OF SPENCER MORRISSEY

MR. MORRISSEY: Good afternoon. My name is Spence Morrissey. I'm a Nebraska legislative rep for the Brotherhood of Maintenance of Way employees which are the people that work and maintain the railroad: the roadbed, the rail, the track, the ties, et cetera.

Our people, our union, have a few concerns that we hope to be addressed and that we don't feel are completely addressed in the draft environmental impact statement. Our concerns are obviously all in transportation, in the area of transportation.

I have worked for Burlington Northern, now Burlington Northern Santa Fe Railroad, for 26 years. Twenty-five of those years, on and off I've been a track inspector. For the last 15 I've been almost exclusively a track inspector from Tecumseh, Nebraska, to Lincoln, Nebraska, where I actually sit on with a truck between trains on a very heavy tonnage rail line and inspect for defects.

1 The Brotherhood of Maintenance of Way is concerned about notification. We had questions about notification and how that would take place. When we did the shipments out of Cooper, I was involved in that also. Notification did not come officially, although everyone up and down the line knew that it was coming.

There were a lot of people scrambling on those first shipments, including rail maintenance people, to repair the tracks ahead of the trains of waste coming out, literally repairing by flashlight ahead of the train. Fortunately, that was a branch line, a slow Class 2 railroad track. But now we're talking about increased volumes -- greatly increased volumes at much higher speeds than that.

So the shipments out of Cooper were all done safely, although if you were involved in it and saw some of the things that actually happened, it would have made you scratch your head. But now it's a completely different situation than we have now.

Notification in -- as far as notifying our workers, our inspectors, our maintenance workers who are at track side, it would be a tough process now that I see that potentially one carload a day, or as we've discussed earlier, seven carloads per week, will be moving through Nebraska for the next 20, 24, 25 years. So notification, I guess, would be difficult at best if we've got something coming through the state every single day.

And I know we currently have material coming through the state: Department of Defense, et cetera. But our -- our people would be well served, the citizens and our workers, the track workers, by notification if at all possible.

For an example, we are all trained in a hazardous material derailment to go to the -- go upwind a half a mile away and get out your binoculars. Less than a year ago we had a hazardous material derailment less than five miles out of Lincoln at a railroad station called Saltillo. Like a good little soldier, I went a half a mile upwind, got out my binoculars, scanned the derailment site as I listened to the engineer and the dispatcher discussing the potential of a ruptured hazardous cars. They didn't know which cars were involved. They did know they had hazardous cars on the train.

As I scanned the derailment site with my binoculars, I saw people crawling through the train. These people later turned out to be volunteer firemen from a small town just two miles away. Again, I emphasize: At that time nothing had been discovered and on what cars were involved. There are strict protocols to follow. They were not followed by these gentlemen.

My boss was also on the scene, my direct supervisor. He is the one that teaches me to go a half a mile upwind and get out my binoculars. He was also on the scene crawling through the car after I had notified him that potential hazardous cars had not been identified.

But the pressures on him as a supervisor at his level were such that he ignored the rules that he had taught me and all my fellow workers, and was in the scene combing through the scene of the accident trying to find the cause against all his best judgment. He couldn't help it. He was in there. So we are very concerned about that.

2

We are also concerned about liability time frame for claiming damages or injuries because of the potential if something should happen. The indication of a personal injury type of situation would not appear for years down the road. So our concern is where the liability would lie, especially in relation to rail -- the railway workers and the law we are served under where we have to prove damages on the railroad to claim our personal workers' compensation situations. So that is a very big concern with us, and we don't know whether it should be handled statewide or federally.

3

We're concerned about the exposure limits that we've discussed earlier, especially when we talked about the variances of spent fuel rods that would be cooling 26 years versus spent fuel rods that would be cooling for only 10 years: that the exposure limits are based on averages, and yet we could have carloads of fuel rods that had only been cooling for 10 years involved in an accident incident and that would then exceed the exposure limits that are currently shown in the draft environmental impact statement.

6

We have a concern about rail maintenance practices and rail operating practices. We've talked about human error, and I see the potential for an incident on the railroad in rail transportation more of a mechanical error than human error.

Right now, the Burlington Northern Santa Fe Railroad through Nebraska is the heaviest tonnage rail corridor in the United States. The heaviest tonnage rail corridor in the world, thus the heaviest tonnage rail corridor in the history of the world. We are, as it has been described by railroad officials on the BNSF, a rolling experiment.

And this was the description ten years ago, and the tonnage has increased dramatically in the last ten years. So we're a rolling experiment on operating, movement of material, and stress on components: the track components, rail ties, switches, roadbed; or car components: wheels and axles, basically.

We are continuing to increase the number of trains and the tonnage included on these trains, and we are running more and more double track which brings up concerns with operating practices when you have two trains passing each other at high speeds less than 20 feet apart.

4 ...

I know the casks -- I've heard of the story of the train hitting the cask test that was done way back when. That cask, I don't know where it is anymore or that design of cask, where they are now, but it's my understanding that that design, again, is -- is in a state of flux right now. We're not sure what will eventually be used. And I would certainly like to see that again tested, as the previous speaker said, in the real world.

Because when you have two trains passing each other at 50 miles an hour, one being a loaded coal train -- because most of our waste will be moving west and most of our loaded coal will -- moves east, you will have a situation where you could have a very high impact.

4

And I've seen rails that have been hit -- could probably be hit by an engine, and in a test it wouldn't show much more than a slight bend; whereas, if that rail was involved in a derailment, it would look like someone tried to write their name with it.

The dynamics involved with equipment of that weight colliding at that speed are really unknown. So I would really like to see the situation, the casks, if they ever figure out exactly what kind they're going to use, to be tested in the real world, as the previous speaker mentioned.

5

We have situations now where we are maintaining our track actually in a reactive type of manner versus a proactive. We don't do preventive maintenance. We -- if something happens, a new rule -- that caused a derailment -- a new rule will come out and a practice will be banned for a while. And after a period of time, be it three, four months, six months, a year, that rule is no longer the hot rule of the day, and that is not -- no longer the most dangerous thing for -- work practice for us to involve.

For example, a year ago, we had a practice that if you had a restrictive track signal -- if a railroad -- the BN and UP main lines through Nebraska are centralized signalized traffic; in other words, they run just like stop lights: red, green, and yellow. If you've got a clear path line, you've got greens and you're going. If you get a train ahead of you, you've got yellows indicating you may get a restrictive speed -- restrictive signal at the next block, but it should clear up and you'll get a green. If you got a red, it's stop. A year ago a red meant stop.

And they would call us out -- "us" being the maintenance of way workers -- in the middle of the night, summer, winter, freezing cold, hot, to inspect that section of track, Point A to Point B, before they ran another train over it. And now the standard operating practice is to run the train at restricted speed.

Restricted speed is a slower speed, which means you should be moving at a speed that allows you to stop for an obstruction. So the slower speed would be -- would cause a derailment, if one would happen, if there was a break at a slower speed. So that would be a lesser severity derailment. But at the same time, you may have a train passing on an adjacent main line at 50 miles an hour and there is no practice to prevent that, and it could then be a collision between two trains going in opposite directions.

We have just last week had a train -- a broken rail in Hickman that was on a curve -- on the high side of a curve -- broke underneath the train. One of our concerns is placement of the car in the train. This rail broke underneath a 120-car train.

Somewhere underneath that train, either it was one car back, the first car, or it was the last car, or there was somewhere in between. So that train went full speed over that broken rail, because he did not know that the rail broke.

We feel that if the cask was in the head end of the consist that you would avoid the -- the potential of that situation happening: breaking underneath the train. And the -- where a lot of times when our derailments happen, they happen on the rear end of the train. A rail will break under, the derailment will take place in the rear of the train. So we think it's important that the -- a load being hauled should be hauled towards the front end of the consist.

We also think that our potential for incidents is increased by the fact that we do have unindicated broken rails. Most of the time if a rail breaks, it pulls apart, it breaks a circuit, it throws a red light -- in the BNSF's case, on a dispatcher board in Fort Worth, Texas; in a UP case, on a dispatcher board in Omaha, Nebraska -- but not always. They see the red light, they run the train at restricted speed over it until that -- someone can come and look at it. If they don't see it, they're running their trains at full speed.

5

I've had two incidences between Tecumseh and Lincoln in the last year, and that's a very small part of the overall rail transportation system in this country that would involve this -- this project.

I have two incidences in the last year where a rail broke and there was no indication, absolutely none, that there was a defect out there. So trains would have been coming at full speed and running over that defect. One of them was because it -- it was hot. The rail was pressed together, so there was no break in the break. There was no pull-apart in the break. The track had expanded and was touching, so the signal continued to run through.

The other one, it was cold and it broke and it pulled apart 4 inches. Because of the cold, the rail contracts. It just breaks and pulls apart. And because that was in a turnout, or a switch, a very sensitive area for gauge and for when your wheels travel through the turnout sections and throw you -- align you onto another railroad track, there are long plates that go from one rail to the other -- that -- that circuit came here, and instead of causing a red light because there was a break there, it traveled down through this plate, through this rail that goes onto the other railroad track, down here, across this plate, and up there completing the circuit; so, thus, we have situations like that in turnout sections -- sections that will not indicate broken rails.

I think this is a concern that needs to be addressed by the FRA, by the Department of Energy. Just want it to be made known that we do, indeed, have operating practices in effect that will allow, not for human failure, but will allow for equipment failure and cause potential derailments when these trains are moving across our state. It's a -- it's a concern of mine and has been for ten years.

And I've also been involved in this issue for quite awhile, not as long as I've been involved with -- with maintenance of railroad tracks. But the combination of these operating practices, the tonnage that moves across this state, and the concern with citizens and the potential damages if something should occur, I would hope the Department of Energy would look at some of these recommendations and operate these trains that are hauling this material in a different mode than just your everyday hazardous waste that moves across our country daily. Thank you.